

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

IVIE SHEVON SAJERE, also
known as IVIE SHEVON
OWOBU,

Defendant.

CRIMINAL ACTION FILE

NO. 1:20-cr-28-TCB

ORDER

This case comes before the Court on Magistrate Judge Russell G. Vineyard's report and recommendation (the "R&R") [78], which recommends granting Defendant Ivie Sajere's motion [64] to sever count thirty-one of the indictment, which charges marriage fraud, from the trial of the remaining counts of the indictment. No objections have been filed.

A district judge has a duty to conduct a "careful and complete" review of a magistrate judge's R&R. *Williams v. Wainwright*, 681 F.2d

732, 732 (11th Cir. 1982) (per curiam) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 408 (5th Cir. Unit B 1982)). This review may take different forms, however, depending on whether there are objections to the R&R. The district judge must “make a de novo determination of those portions of the [R&R] to which objection is made.” 28 U.S.C. § 636(b)(1)(C). In contrast, those portions of the R&R to which no objection is made need only be reviewed for “clear error.” *Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006) (per curiam) (quoting *Diamond v. Colonial Life & Accident Ins.*, 416 F.3d 310, 315 (4th Cir. 2005)).¹

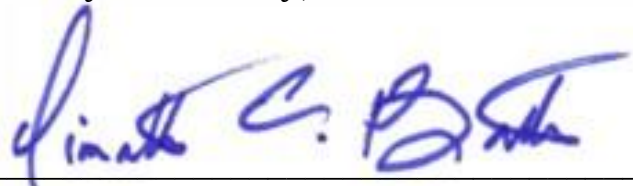
After conducting a complete and careful review of the R&R, the district judge “may accept, reject, or modify” the magistrate judge’s

¹ *Macort* dealt only with the standard of review to be applied to a magistrate’s factual findings, but the Supreme Court has indicated that there is no reason for the district court to apply a different standard to a magistrate’s legal conclusions. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Thus, district courts in this circuit have routinely reviewed both legal and factual conclusions for clear error. *See Tauber v. Barnhart*, 438 F. Supp. 2d 1366, 1373–74 (N.D. Ga. 2006) (collecting cases). This is to be contrasted with the standard of review on appeal, which distinguishes between the two. *See Monroe v. Thigpen*, 932 F.2d 1437, 1440 (11th Cir. 1991) (holding that when a magistrate’s findings of fact are adopted by the district court without objection, they are reviewed on appeal under a “plain error standard” while questions of law always remain subject to de novo review).

findings and recommendations. 28 U.S.C. § 636(b)(1)(C); *Williams*, 681 F.2d at 732. The district judge “may also receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1)(C).

The Court has conducted a careful and complete review of the R&R and finds no clear error in its factual or legal conclusions. Accordingly, the Court adopts as its Order the R&R [78]. Sajere’s motion [64] to sever is granted.

IT IS SO ORDERED this 25th day of January, 2021.

A handwritten signature in blue ink, appearing to read "Timothy C. Batten, Sr.", is written over a horizontal line.

Timothy C. Batten, Sr.
United States District Judge